

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EMCASCO INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:10-CV-339 CAS
)	
INNSBROOK CORPORATION, et al.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

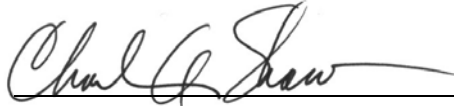
This matter is before the Court on plaintiff EMCASCO Insurance Company’s motion to strike the cross-motion for summary judgment filed by defendant IPEX USA, LLC. The motion will be denied for the following reasons.

Under Federal Rule of Civil Procedure 12(f), a court may “strike from **a pleading** an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Rule 12(f), Fed. R. Civ. P. (emphasis added). A motion to strike is properly directed only to material contained in pleadings. Coleman v. City of Pagedale, No. 4:06-CV-1376 ERW, 2008 WL 161897, *4 (E.D. Mo. Jan.15, 2008). The Federal Rules of Civil Procedure define pleadings as a complaint, an answer to a complaint, an answer to a counterclaim designated as a counterclaim, an answer to a crossclaim, a third-party complaint, an answer to a third-party complaint, and if the court orders one, a reply to an answer. Fed. R. Civ. P. 7(a). Motions, briefs, memoranda, objections or affidavits may not be attacked by a motion to strike. 2 James W. Moore, et al., Moore’s Federal Practice § 12.37[2] (3rd ed.2010). See Coleman, 2008 WL 161897, at *4; Mecklenburg Farm, Inc. v. Anheuser-Busch, Inc., No. 4:07-CV-1719 CAS, 2008 WL 2518561, *1 (E.D. Mo. June 19, 2008). Defendant’s cross-motion for summary judgment is not a pleading and thus cannot be attacked with a motion to strike.

In its motion, plaintiff appears to object to defendant IPEX USA, LLC's standing to seeking declaratory relief in this matter. This issue should be raised in a memorandum in opposition to the cross-motion for summary judgment. The Court will therefore deny the motion to strike.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to strike defendant IPEX USA, LLC's cross-motion for summary judgment is **DENIED**. [Doc. 53]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 12th day of October, 2010.